IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 19589 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

SOMABHAI SHIVDAS PATEL AND ANOTHER
Versus
THE STATE OF GUJARAT AND ANOTHER

==========

Appearance :
MR MP PRAJAPATI for Petitioners.
MS NISHA PARIKH, AGP for Respondents.

==========

CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 10/08/2007

ORAL JUDGMENT

1. Leave to amend so as to replace Annexure-B.

2. The petitioners have, by invoking Article 226 of the Constitution, challenged order dated 7-6-2001 of Deputy Collector, Stamp Duty Valuation Organization, Gandhinagar, which was purported to have been

made under the provisions of Section 32 A of the Bombay Stamp Act, 1958 (for short “the Act”), as also order dated 15-5-2006 whereby the application of the petitioner for making a reference was rejected only on the ground of limitation.

3. **I**t was submitted on behalf of the petitioner and fairly conceded on behalf of the respondents that impugned order dated 7-6-2001 under the provisions of Section 32 A of the Act, determining market value of the property and determining deficit stamp duty was subject matter of challenge by the petitioner and the petitioner had sought to avail alternative remedy provided under the provisions of Section 32 B, after depositing 25% of deficit stamp duty as determined by the former order. However, the application for making a reference under the provisions of Section 32 B had come to be rejected by impugned order dated 15-5-2006 on account of deposit having been made late and the period of limitation having since long expired. It was, however, jointly submitted that in view of the petitioner having come to know about impugned order dated 7-6-2001 only in October 2001, the application of the petitioner for a reference and the reference made on that basis could have been and ought to have been considered on merits.

4. Therefore, in view of fair concession made on behalf of the respondents, it is directed that the application of the petitioner in the form of a revision application under Section 53 of the Act shall be acted upon by the Collector concerned for preparing a statement of the case and referring it to the Chief Controlling Revenue Authority for its consideration and decision in accordance with law, on merits, and after affording to the petitioners an opportunity of being heard. In view of long lapse of time, aforesaid proceeding shall be conducted and concluded as expeditiously as practicable and the application of the

petitioner and reference made on that basis shall not be dismissed only on the ground of delay. Rule is made absolute accordingly with no order as to costs.

(D.H.Waghela, J.)

/malek